

APR 5 2003  
920537-905627

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

IN RE APPLICATION OF: : HAZON, Stephen et al  
SERIAL NO: : 09/867,176  
FILED: : MAY 29, 2001  
FOR: : OPTICAL SWITCH USING  
MICROMIRRORS AND METHOD  
TESTING THE SAME  
EXAMINER: : VALENTIN, JUAN D  
GROUP ART UNIT: : 2877

I hereby certify that this correspondence is being deposited with the United States Postal Service  
as first class mail in an envelope addressed to "Director of Patents and Trademarks,  
Washington, D.C. 20231," on April 10, 2003.  
Name of person signing Jennifer J. Ramirez  
Signature \_\_\_\_\_

RESPONSE & AMENDMENT

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APR 16 2003

Technology Center 2600

Honorable Director of  
Patents and Trademarks  
Washington, DC 20231

Dear Sir:

This paper responds to the Office Action mailed March 11, 2003 with reference to the above-identified application.

Applicant provisionally elects, with traverse, restriction to group II as defined by the Examiner, consisting of claim 17. The applicant understands that claims 1 to 10 and 18 are also to be examined upon restriction to group II.

Notwithstanding the above provisional restriction, the applicant objects to the restriction requirement and requests reconsideration.

Claims 16 and 17, corresponding to groups I and II respectively as defined by the Examiner, are both directed to optical switches. The applicant submits that the switches of claims 16 and 17 are not subcombinations useable together in a single combination since both define a respective switching array of micromirrors which are not compatible. The switches of claims 16 and 17 are in fact indistinct aspects of the same invention. Their classification in the same class underscores this.

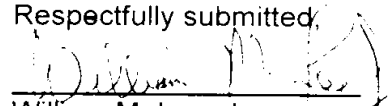
Claims 16 and 17, corresponding to group I/II as defined by the Examiner, and claims 11 to 15 and 19, corresponding to group III as defined by the Examiner, are related as a product and a process of use. The product is an optical switch and the process of use is a method of testing an optical switch. The Examiner alleges that an optical switch can be used in a materially different process such as switching signals in an optical cross connect. However, the applicant submits that switching signals using an optical switch and testing an optical switch are not materially different processes, since testing is an inherent requirement of such devices.

In view of the above arguments, it is hereby submitted that claims 1 to 19 relate to the same invention, and that restriction is not appropriate.

Further consideration of the application is now awaited.

April 10, 2003

Respectfully submitted,

  
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